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10/030,410	06/20/2002	Jiri Babej	60174-026	8965

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EXAMINER

MITCHELL, KATHERINE W

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/030,410

Applicant(s)

ABEJ, JIRI

Examiner

Katherine W Mitchell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,9 and 10 is/are rejected.
- 7) ☒ Claim(s) 4-8 and 11-23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

## DETAILED ACTION

### *Claim Objections*

1. Claims 4-8 and 11-23 are objected to under 37 CFR 1.75(c) as being in improper form because they are dependent, directly or indirectly, on multiple dependent claim 3. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-3 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors. The claims require revision to be put into proper form. They were examined as best understood. Note that the claims were examined as combination claims -- element and panel/sheet metal in combination, rather than subcombination claim (element only) since claim 1 discloses a functional element "designed for" a joint to a panel element, but then positively recites features of the panel element, including the rivet flange sheet metal part thickness, annular fold, etc. For example, examiner cannot be sure what piece has the annular fold -- the functional element or the sheet metal part, and the wording indicates the fold

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is on the sheet metal part, but the figures (see for example Figs 4,5,7,9,12,14D, 14E,17G,17H,and 17I) show the annular flange on the functional element. Since the figures seem consistently clear in showing the fold on the functional element, examiner is considering the claim with the fold on the functional element, not the panel/sheet metal.

Applicant discloses in claims 1 and 10 a functional element, in particular a bolt element...". Examiner does not know whether applicant is claiming a bolt element or any functional element. Examiner will examine a though any functional element is claimed. Claims 2-3 are rejected as depending from claim 1.

Applicant discloses in claims 1 and 10 a functional element... joined to a panel element, in particular a sheet metal part...". Examiner does not know whether applicant is claiming sheet metal part or any panel element. Examiner will examine a though any panel element is claimed. Claims 2-3 are rejected as depending from claim 1.

Claim 1 recites the limitation "the end" in line 11. There is insufficient antecedent basis for this limitation in the claim. Examiner will assume the head has two ends, and the end remote form the shaft part is one of them.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 3 off 1 are rejected under 35 U.S.C. 102(b) as being anticipated by Sadri et al USP 6213699. Sadri teaches a functional element consisting of a shaft part (pin 14) and a head part (sleeve head 12) in the abstract. They are capable for riveting to a panel element. The head part is hollow (Fig 1) and has at least a diameter equal to the shaft (Fig 1). The end of the head part remote from the shaft part has piercing and riveting features – it is made of metal, a common feature of piercing and riveting apparatus. The length of the hollow head is dimensioned such that its length is at least as long as the length of a rivet flange and the thickness of the sheet metal part and double the length of an annular fold formed (figs 7a-7c). Examiner notes that applicant has not positively recited a rivet flange or an annular fold and thus essentially any dimension can be considered that is longer than the thickness of the sheet metal part.

Re claim 3 off 1: The interior of the hollow head is substantially circularly cylindrical as shown in Fig 3.

6. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Marling USP 4204308. Marling Fig 2 shows a functional element characterized in that the head part (16) merges into the shaft part (20) without a flange part.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 3 off 2 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller USP 4633560. Muller teaches a functional element consisting of a shaft part (10) and a head part (30), with the end of the head part remote from the shaft part has piercing and riveting features, in the abstract and col 8 lines 3-35 and Fig 1. They are capable for riveting to a panel element (col 7 lines 41-50). The head part is hollow (Fig 1) and has at least a diameter equal to the shaft (Fig 1). The length of the hollow head is dimensioned such that its length is at least as long as the length of a rivet flange and the thickness of the sheet metal part and double the length of an annular fold formed. Examiner notes that applicant has not positively recited a rivet flange or an annular fold and thus essentially any dimension can be considered that is longer than the thickness of the sheet metal part. Thus it would have been an obvious matter of design choice to make the head length of whatever size is required to form the rivet structure through a sheet metal part, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

*from* Re claim 3 off 2: The interior of the hollow head is substantially circularly cylindrical as shown in Fig 1, 3, and 7-10.

Re claim 10: Muller shows a flange (31) between the head and shaft. Optional features are not considered.

### **Conclusion**


8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W Mitchell whose telephone number is 703-305-6713. The examiner can normally be reached on Mon - Thurs 10 AM - 8 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-4180.

Kwm  
1/31/2004

  
J. J. SWANN  
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